In Andrews v. Robertson,[18] the court refused to recognize evidence of an express promise to assume the obligation on the ground that there could be no consideration for a promise made after the execution of the agreement. The parol evidence rule was invoked in the principal case,[19] where the District Court of Appeal held that, although a positive stipulation in a deed is not essential to create a personal liability in the event of a sale of real estate encumbered by a mortgage, the dictum of Hopkins v. Warner is not applicable, in the absence of fraud or mistake, where the parties have reduced their agreement to writing.

It seems clear that the dictum in question, in spite of the fact that it has been referred to in the reports a half dozen times,[20] has been quoted verbatim three of those times,[21] and has found its way into a general collection of annotated cases as a statement of a peculiar rule recognized in California,[22] is not the law of California; and it may be expected that when the point comes up squarely for decision, the Supreme Court will overrule this oft-repeated assertion. In the meantime, careful grantors of mortgaged property will insert in their deeds or in the agreement which recites the terms of the transaction a clear and concise statement that the grantee agrees to pay the mortgage debt and to indemnify and save the grantor harmless therefrom.

R. V.

TORRENS LAW: MANDATORY CHARACTER OF PROVISIONS: FAILURE TO PROTECT AGAINST TAX LIENS—The Torrens system of land registration is so recent a development in the real property law of the United States that the courts have scarcely begun to scratch the surface of these statutes either by way of construction and interpretation or in pointing out their practical application to actual real estate operations.[1] A case throwing some light on our own Land Title Law[2] is *Application of Seick*,[3] in which the District Court of Appeal construed as mandatory and not merely directory the seventy-seventh section which declares that notice of tax sales must be given to the registrar of titles within five days. It was held that failure to comply with this section made the sale absolutely void. The court also said, though obiter dictum, that the tax lien itself was not disturbed and the collector might enforce it by going through the forms of a new sale.

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[18] Supra, n. 5, at 440.
[19] Supra, n. 1, at 459.
[20] Supra, n. 13.
[21] Hibernia Sav. etc. Soc. v. Dickinson, supra, n. 4, at 622; Andrews v. Robertson, supra, n. 5, at 438; Dutton v. Locke-Paddon, supra, n. 13.
[22] L. R. A. 1917C 592, note.

[1] See generally, L. R. A. 1916D 14, note. See as to California, A. M. Kidd, The Applicability of the Torrens Act in California, 7 California Law Review, 75.
[2] Cal. Stats. 1915, p. 1932.
[3] (Feb. 26, 1920) 31 Cal. App. Dec. 609, 189 Pac. 314.

The Torrens Law itself lays down broadly and generally the rule[4] for its own construction—it is to be liberally construed so far as is necessary to effect its general intent. But is this the liberality to which we have been accustomed in other laws relating to land titles? The Supreme Court of North Carolina[5] observed that this law marked so wide a departure from the principle before existing, relating to acquisitions of titles to land or any interest therein, that very little, if any, assistance can be had in determining its proper construction by reference to former statutes and decisions. Recording acts generally are construed liberally in favor of those who have failed to comply with their provisions, and strictly against those who assert a right under such failure. A Torrens Law, on the other hand, is construed strictly against those who fail to comply with its provisions, and liberally in favor of those who assert rights under such failure. And this must necessarily be so if the intent of the act—that everything pertaining to the title must be on the certificate of title—shall be carried out. Its commands and prohibitions must be looked upon as mandatory and not merely directory; and in reaching this result, the court in Application of Seick is in accord with the only two cases in which this point had previously been considered.[6]

The dictum in the Seick case that a tax lien would be good against a subsequent mortgagee in good faith, although no "memorial" appears on the certificate of title, suggests the great importance of looking up tax liens, whether one is dealing with land brought under the Torrens Act or not. Practically, this may be done by reference to the tax ledger, and an additional safeguard is found in the requirement that the existence of delinquent taxes be stamped upon the tax bill. The only opportunity for error lies in the failure of the books or tax bills to show the delinquency as they should. But against this possibility, the Torrens Act by its own express provisions[7] offers no protection.

It is significant that the city attorney of Los Angeles[8] has asked that a man be appointed to devote all his time to looking after the city's interests in relation to Torrens titles, and this perhaps as a result of the very case under review. But be that as it may, Application of Seick throws an interesting sidelight upon the difficulties of practice under the Torrens System, and shows the imperative need of a close scrutiny of and a strict adherence to the provisions of the statute. *L. B. S.*

WILLS: SIGNATURE OF THE WITNESSES AT THE END—Subdivision 1 of section 1276 of the Civil Code of California provides that a will shall "be subscribed at the end thereof by the

[4] § 115, Stats. 1915, p. 1951.
[5] Dillon v. Broeker (1919) 100 S. E. 191 (N. C.).
[6] Dewey v. Kimball (1903) 89 Minn. 454, 95 N. W. 317, 895, 96 N. W. 704; Brooke v. Glos (1909) 243 Ill. 392, 90 N. E. 751.
[7] § 34, Stats. 1915, p. 1939.
[8] San Francisco Recorder, Mar. 31, 1920.